

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

ROBERT G. MONTGOMERY FAMILY TRUST,
8570 S. 116th Street,
Franklin, WI 53132

Case No. _____

Plaintiff,

vs.

TESLA MOTORS, INC.,
3500 Deer Creek Road
Palo Alto, CA 94304

Defendant.

NOTICE OF REMOVAL

Defendant Tesla Motors, Incorporated (“Tesla”), by its attorneys, Michael Best & Friedrich LLP, in accordance with 28 U.S.C. § 1446, submits this Notice of Removal for removal of this action from the Circuit Court of Milwaukee County, Wisconsin, to the United States District Court for the Eastern District of Wisconsin, pursuant to 28 U.S.C. § 1441.

In support of its Notice of Removal, Tesla states as follows:

1. This civil action was filed on April 7, 2014, in the Circuit Court of Milwaukee County, Wisconsin, as Case No. 14-CV-2962.
2. Plaintiff mailed a copy of the Summons and Complaint to Tesla’s registered agent, CT Corporation System, that was received on April 14, 2014. A true and correct copy of the received Complaint is attached hereto as **Exhibit A**.
3. This action is a civil action over which this Court has original jurisdiction under 28 U.S.C. § 1332 and is one that Tesla is entitled to remove to this Court pursuant to 28 U.S.C. §

1441(b), in that diversity of citizenship exists between Plaintiff and Tesla and the matter in controversy exceeds \$75,000. *See, e.g.*, Ex. A, ¶¶ 4, 12.

4. The United States District Court for the Eastern District of Wisconsin, Milwaukee Division is the district court of the United States for the district and division within which Plaintiff's original state court action was filed and is pending.

5. Plaintiff is a citizen of Wisconsin, residing in Franklin, Wisconsin. *See* Ex. A, ¶ 1. Defendant Tesla is a company, organized and existing under the laws of the state of Delaware. *See* Declaration of Philip Rothenberg, attached hereto as **Exhibit B**, at ¶ 2. Tesla's principal place of business is at 3500 Deer Creek Road, Palo Alto, California, 94304. *Id.* at ¶ 3. Tesla is not a citizen of Wisconsin for purposes of diversity jurisdiction. *See* 28 U.S.C. § 1332(c)(1).

6. The amount in controversy herein, exclusive of interests and costs, is alleged to be in excess of seventy-five thousand dollars (\$75,000.00). In support of this averment, Tesla notes that the Plaintiff alleges in the Complaint that it is entitled to monetary damages of at least \$108,622.90. *See* Ex. A, ¶¶ 4, 5, 12; *see also* Ex. A, Prayer for Relief.

7. This Notice of Removal is being filed within thirty (30) days of the date of Tesla's receipt of the Complaint, in accordance with 28 U.S.C. § 1446(b). Plaintiff sent a copy of the Summons and Complaint to Tesla's registered agent, CT Corporation System, 818 W. Seventh Street, Los Angeles, California 90017 that was received on April 14, 2014, Tesla's time to respond to the Complaint has not yet expired, and Tesla has not yet served or filed an answer or other pleading in response to Plaintiff's Complaint.

8. In accordance with 28 U.S.C. § 1446(a), Tesla states that Plaintiff's Complaint constitutes all the process, pleadings, and orders served on Tesla in this matter. *See* Ex. A.

9. A copy of this Notice of Removal is being contemporaneously filed with the Clerk of the Circuit Court of Milwaukee County, Wisconsin, in accordance with 28 U.S.C. § 1446(d). A copy of said notice is attached hereto as **Exhibit C**.

10. In accordance with 28 U.S.C. § 1446(d), Tesla has given written notice to Plaintiff by contemporaneously serving this Notice of Removal, including all exhibits, on Plaintiff's counsel.

11. Removal of this action to the United States District Court for the Eastern District of Wisconsin does not in any manner impede or impair Tesla's ability to assert any defense in the action, including but not limited to defenses based upon jurisdiction and venue.

Dated this 1st day of May, 2014.

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